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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	P	ATTORNEY DOCKET NO.
09/073,029	05/05/98	MORTON		7662 <i>TM</i>

JACOX MECKSTROTH & JENKINS
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DAYTON OH 45419-1575

PM82/0727

TRAN A, EXAMINER

365 UNIT	PAPER NUMBER
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07/27/98

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/073,029

Applicant(s)
Morton et al.

Examiner
Phi Dieu Tran A

Group Art Unit
3635



☒ Responsive to communication(s) filed on Jun 21, 1999

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 2, 3, 5-8, 10-12, 15, 16, and 20-24 is/are pending in the application.

Of the above, claim(s) 8 and 16 is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 2, 3, 5-7, 10, 11, 15, and 21-24 is/are rejected.

☒ Claim(s) 12 and 20 is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 22 lines 14 "for securing" is confusing as said frame is a claimed structure and thus must be claimed in combination.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 21, 2, 7, 10, 11, and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by France (2537199). France ('199) figure 4 shows a building wall having an inner surface and an exterior surface and defining a window opening receiving a frame of a window assembly, a frame having elongated tubular sill member connecting a pair of elongated tubular jamb members, each of said sill and jamb members including spaced inner (104), and outer walls(5), longitudinally

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extending transverse walls (A, B, C), an exterior portion(E) projecting outwardly from said inner wall and cooperating with an adjacent said transverse wall to define a channel, said channel being laterally inwardly of said outer walls of sill and jamb members, a laterally spaced wall (9) projecting generally perpendicular outwardly from said adjacent transverse wall to form a continuation of said inner wall of said sill member, a double wall flange projecting laterally outwardly from said laterally spaced walls and cooperating with said adjacent transverse wall(A) to define said channel, exterior trim wall(T) projecting laterally inwardly from said first wall.

For claim 7, figure 4 shows exterior portion (Q) with double flange cooperating with transverse wall to define said channel and said inner and outer walls sloping toward said channel.

5. Claims 3, 5-6, and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Colitto.

Colitto (figure 1) shows a building wall (col. 2 line 7) having an inner surface and an exterior surface defining a window opening receiving a frame of a window assembly, said frame having an elongated sill member of extruded plastics material, and connecting a pair of elongated jamb members of extruded plastics material, each of the sill and jamb members having longitudinally extending and laterally spaced inner and outer walls (11, A) connected by longitudinally extending transverse walls (B) generally perpendicular to said inner and outer walls, an exterior portion (E) projecting outwardly from said exterior surface of said building wall and cooperating with an exterior said transverse wall (B) to define a channel disposed outwardly from said exterior surface of said building wall, said channels of said sill and jamb members extending laterally inwardly of said outer walls and laterally inwardly of said window opening with

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substantial depth, first wall (D) projecting outwardly from said exterior transverse wall, an exterior trim wall (F) projecting laterally inwardly from said first wall, a flange wall (17) projecting laterally outwardly from said first wall and said trim wall and cooperating with said exterior transverse wall to define said channel, said trim wall having a bottom end mating with said inner wall of said sill member, extruded guide walls (I) projecting laterally inwardly from the corresponding said inner wall and defining guideways, extruded mating walls (I) projecting laterally inwardly from the corresponding said inner wall and defining a recess, extruded walls defining a groove adapted to receive the frame of a screen, a frangible and removable rigid flange projecting into said groove.

6. Claims 22, 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Huelsekopf.

Huelsekopf (1-3) shows a frame with elongated tubular sill member and a pair of elongated tubular jamb members, said sill and jamb members being connected by welding/fusing (col. 3 lines 20-30) at mitered corners, inner wall (A), outer wall (B), longitudinally extending transverse walls (E), an exterior portion (F) projecting outwardly from a plane defined by said nailing flanges, said exterior portion together with said transverse wall defining a channel, said channel being inwardly of said outer walls, said exterior portion having laterally spaced wall (G) projecting generally perpendicular outwardly from said adjacent transverse wall to form a continuation of said inner wall of said sill member, a double flange (H) projecting laterally outwardly from said laterally spaced walls and defining the said channel.

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For claim 11, Huelsekopf shows a first wall (J), trim wall (K), double wall flange (H) cooperating with said walls and adjacent transverse wall to define said channel.

7. Claim 15 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Scott et al.

Allowable Subject Matter

8. Claims 12 and 20 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

9. Applicant's arguments with respect to claims 2-3, 5-7, 10-11, 15, 21-24 have been considered but are moot in view of the new ground(s) of rejection.

Claims 8 and 16 are withdrawn from further considerations as they pertain to non-elected specie (figure 5).

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows different window designs.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi Dieu Tran A whose telephone number is (703) 306-9136. The examiner can normally be reached on Monday to Thursday from 8:00 to 5:00. The examiner can also be reached on alternate Friday.

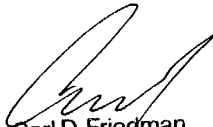
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman, can be reached on (703) 308-0839. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3597.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Phi Dieu Tran A

PA

7/20/99


Carl D. Friedman
Supervisory Patent Examiner
Group 3600